



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

UNITED SURGERY CENTER SOUTHEAST
PO BOX 201620
HOUSTON TX 77216

Respondent Name

LIBERTY MUTUAL FIRE INSURANCE

Carrier's Austin Representative Box

Box Number 01

MFDR Tracking Number

M4-11-2820-01

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "According to the MEDICARE CCI VERSION 16.3 EDIT procedures 29875 and 29881 are billable and can be paid separately as long as appropriate modifier is used. Which we have already added a 59 modifier to 29875RT on our last appeal."

Amount in Dispute: \$1374.63

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "CPT 29875-RT-59 was denied as this separate independent procedure is considered an integral part of the total services performed and does not warrant a separate charge. (u009). The Modifier 59 is not supported as this is a separate procedure code and per Medicare CCI. Per the Medicare Correct Coding Guideline: 'If the code descriptor of a HCPCS/CPT code includes the phrase, 'separate procedure', the procedure is subject to CCI edits based on this designation. CMS does not allow separate reporting of a procedure designated as a 'separate procedure' when it is performed at the same patient encounter as another procedure in an anatomically related area through the same skin incision, orifice, or surgical approach.'"

Response Submitted by: Liberty Mutual Insurance Group, 2875 Browns Bridge Road, Gainesville, GA 30504

SUMMARY OF FINDINGS

| Dates of Service | Disputed Services | Amount In Dispute | Amount Due |
|--------------------|-----------------------------------|-------------------|------------|
| September 21, 2010 | ASC Services for Code 29875-RT-59 | \$1374.63 | \$0.00 |

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving a medical fee dispute.
2. 28 Texas Administrative Code §134.402, titled *Ambulatory Surgical Center Fee Guideline*, effective August 31, 2008, sets out the reimbursement guidelines for ambulatory surgical care services.
3. The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of benefits dated March 2, 2011

- U008-This separate independent procedure is considered an integral part of the total services performed and does not warrant a separate charge.

Issues

1. Did the requestor support position that the disputed ASC services for code 29875-RT-59 are not included in 29881-RT? Is the requestor entitled to reimbursement?

Findings

1. 28 Texas Administrative Code §134.402(d) states “ For coding, billing, and reporting, of facility services covered in this rule, Texas workers' compensation system participants shall apply the Medicare payment policies in effect on the date a service is provided with any additions or exceptions specified in this section.”

The respondent denied reimbursement for HCPCS code 29875-RT-59 based upon EOB denial reason code “U008-This separate independent procedure is considered an integral part of the total services performed and does not warrant a separate charge.”

HCPCS code 29875 is defined as “Arthroscopy, knee, surgical; synovectomy, limited (eg, plica or shelf resection) (separate procedure).”

Per NCCI edits HCPCS code 29875 is a component of HCPCS code 29881; however, a modifier is allowed when appropriate. The requestor utilized modifier “59” to differentiate it as a separate service.

Modifier 59’s descriptor is “**Distinct Procedural Service:** Under certain circumstances, it may be necessary to indicate that a procedure or service was distinct or independent from other non-Evaluation and Management (E/M) services performed on the same day. Modifier 59 is used to identify procedures or services other than E/M services that are not normally reported together but are appropriate under the circumstances.

Documentation must support a different session, different procedure or surgery, different site or organ system, separate incision or excision, separate lesion or separate injury (or area of injury in extensive injuries) not ordinarily encountered or performed on the same day by the same individual. However, when another already established modifier is appropriate, it should be used rather than modifier 59. Only if no more descriptive modifier is available and the use of modifier 59 best explains the circumstances should modifier 59 be used.”

The September 21, 2010 Operative report indicates that the claimant underwent “partial medial meniscectomy; and partial synovectomy.”

On April 9, 2010 the Division emailed the requestor’s representative, Alice Olvera, seeking clarification and supporting documentation for the use of modifier 59 in this dispute. On April 20, 2012 the Division again attempted to reach the provider and left a message for Ms. Olvera to contact the Division regarding this dispute. At the time of this review, the requestor had not submitted the requested information or contacted the Division regarding this matter; therefore, this decision will be based upon the submitted information.

Trailblazers Health Enterprise, LLC’s Ambulatory Surgical Care Manual states that “The medical record must reflect that the modifier is being used appropriately to describe separate services. The documentation should be maintained in the patient’s medical record and made available to Medicare upon request.”

The Division finds that the requestor’s documentation does not support the appropriate use of modifier 59, nor that CPT code 29875 is not a component of 29881. As a result, reimbursement is not recommended.

Conclusion

The Division would like to emphasize that individual medical fee dispute outcomes rely upon the evidence presented by the requestor and respondent during dispute resolution, and the thorough review and consideration of that evidence. After thorough review and consideration of all the evidence presented by the parties to this dispute, it is determined that the submitted documentation does not supports the reimbursement amount sought by the requestor. The Division concludes that the requestor did not support its position that additional reimbursement is due. As a result, the amount ordered is \$0.00.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

Authorized Signature

| | | |
|-----------|--|-----------|
| _____ | _____ | 4/26/2012 |
| Signature | Medical Fee Dispute Resolution Officer | Date |

YOUR RIGHT TO REQUEST AN APPEAL

Either party to this medical fee dispute has a right to request an appeal. A request for hearing must be in writing and it must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party**.

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.